In the High Court of Punjab and Haryana at Chandigarh

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Criminal Revision No.447 of 2007

.....

Date of decision:8.3.2007

Harmanjit Singh and others

.....Petitioners

v.

State of Punjab

.....Respondent

....

Present: Ms. Malkiat Mann, Advocate for the petitioners.

.....

S.S. Saron, J.

This criminal revision petition has been filed against the order dated 4.12.2006 passed by the learned Additional Sessions Judge, Amritsar whereby charge has been framed against the petitioners for the offences under Sections 364 and 342 of the Indian Penal Code (`IPC' – for short).

FIR in the case has been registered on the statement of Jaswant Singh complainant, who has alleged that earlier his brother Harjinder Singh and one Dara Singh Majhbi Sikh, resident of Rasulpur Kalan were murdered regarding which case FIR No.20 dated 14.1.2003 for the offences under Sections 302, 427, 352, 201 and 34 IPC besides Section 25 of the Arms Act was registered at Police Station, Jandiala. The case is being tried in the Court of the Sessions Judge, Amritsar. It was fixed for argument on 24.1.2006. After returning from the Court the complainant was coming on

his motorcycle which was stopped by the petitioners side. The Parna that the complainant had on his head was removed and his hands were tied behind his back. He was abducted with an intention to kill him. The occurrence is stated to have been witnessed by Narinder Pal Singh son of Balwant Singh and Dara Singh son of Massa Singh. The petitioners side confined the complainant in a room and tied him with a grill. Thereafter, Bakhtawar Singh son of Kartar Singh also came there. All these persons gave fist blow and kicks in the stomach of the complainant alleging him of having close links with the accused of case FIR No.20 dated 14.1.2003 relating to the offence under Section 302 IPC. The Police investigated the case and a charge report (challan) in terms of Section 173 of the Code of Criminal Procedure (`Cr.P.C.' - for short) was filed.

Learned counsel for the petitioners has submitted that no offence is made out against the petitioners and they are being falsely implicated.

After giving my thoughtful consideration to the matter, I find no merit in the contention of the learned counsel for the petitioners. The contention that was raised by the accused was that in fact Bakhtawar Singh accused was a witness in the double murder case and he did not support the case of the prosecution. Due to this reason Jaswant Singh had got the present FIR registered. It was observed that a perusal of the report under Section 173 Cr.P.C. and statements of other witnesses show that Jaswant Singh complainant on 25.1.2006 made a statement before the Police that the accused in the present case removed the Parna from his head and tied his arms with it. He was forcibly abducted from his `Behak' in order to murder

him. A prima facie case was found against the accused for the offences under Sections 364 and 342 IPC. From the material and evidence on record at this stage it cannot be said that the petitioners are liable to be discharged by holding that no prima facie case is made out against them. This is a matter which is required to be gone into and ascertained by the trial Court after the prosecution has led its evidence.

In the circumstances, no ground for interference with the impugned order dated 4.12.2006 passed by the learned Additional Sessions Judge, Amritsar is made out.

For the foregoing reasons, there is no merit in this petition and the same is accordingly dismissed. However, nothing stated herein shall be taken as an expression on the merits of the case which is pending before the trial Court.

March 8, 2007. **(S.S. Saron)**
Judge

hsp